



# California Fair Political Practices Commission

May 9, 1989

Robert E. Leidigh  
Olson, Connelly, Hagel & Fong  
300 Capitol Mall, Suite 350  
Sacramento, CA 95814

Re: Your Request for Advice  
Our File No. A-89-206

Dear Mr. Leidigh:

You have requested advice on behalf of Leslie M. Liscom, Chair of the California Horse Racing Board, regarding his duties under the conflict-of-interest provisions of the Political Reform Act.<sup>1/</sup>

## QUESTIONS

1. Mr. Liscom's spouse obtained permission from Hollywood Park race track to offer "a day at the races with a racing commissioner" as an auction item for the Gold Shield at U.C.L.A. Are meals and beverages provided to Mr. Liscom on that day gifts which Mr. Liscom must report on his financial disclosure statements?
2. Must Mr. Liscom report as gifts four guest passes which he arranged with Hollywood Park to have left at will call for his friends?
3. Any time an owner or a trainer has a horse running at Hollywood Park, they may obtain guest passes for admission to watch their horse compete. Must Mr. Liscom report as gifts guest passes which he arranged to be left at Hollywood Park for a horse owner?

---

<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

Robert E. Leidigh  
May 9, 1989  
Page 2

4. Are gifts of food and beverage provided by Hollywood Park to Mrs. Liscom gifts to Mr. Liscom?

#### CONCLUSIONS

1. Mr. Liscom's meal and beverages are gifts to Mr. Liscom from Hollywood Park.

2. The passes provided to Mr. Liscom's friends are gifts to Mr. Liscom from Hollywood Park.

3. The passes provided to the horse owner are gifts to Mr. Liscom from Hollywood Park.

4. The meals and beverages provided to Mrs. Liscom are not gifts to Mr. Liscom so long as the invitation was issued to Mrs. Liscom.

#### FACTS

You have provided the following facts:

1. Mr. Liscom's spouse, on her own initiative contacted officials at Hollywood Park race track and sought their permission to offer "a day at the races with a racing commissioner" as an auction item for a charity auction for the Gold Shield at U.C.L.A. She was granted permission to make such an offer.

The item was purchased at the auction by a couple who were previously unknown to Mr. & Mrs. Liscom. The couple attended the races at Hollywood Park on July 17, 1988. They were accompanied (as offered) by Mr. Liscom. The admissions for the couple were provided by using Mr. Liscom's California Horse Racing Board credentials. Mr. & Mrs. Liscom also entered utilizing his California Horse Racing Board credentials. The four were guests of Hollywood Park for the races and received free meals and beverages, per Mrs. Liscom's arrangement with Hollywood Park.

2. Mr. Liscom called Hollywood Park and requested that four guest passes be left at will call for friends of his. The guest passes were only for admission purposes and were picked up directly by the friends. Mr. Liscom never had possession or control of the guest passes. They were used on May 22, 1988.

3. An acquaintance of Mr. Liscom owns race horses. The acquaintance resides in British Columbia, but on occasion visits the United States to see his horses compete. The acquaintance, a Mr. Sloan, phoned Mr. Liscom because he was aware of Mr. Liscom's involvement in racing. Mr. Sloan wanted to come see his horse run in a race at Hollywood Park. He did not know how to contact Hollywood Park to obtain admission for himself, his spouse and child. He called Mr. Liscom for assistance. Mr. Liscom, in return, contacted Hollywood Park and requested that three guest passes be left for Mr. Sloan. Mr. Sloan picked them up directly.

Robert E. Leidigh  
May 9, 1989  
Page 3

Mr. Liscom is informed that any time an owner or a trainer has a horse running at Hollywood Park, they may obtain these guest passes for admission to watch their horse compete.

4. On a number of occasions, Mr. Liscom and his wife have been invited to attend events at Hollywood Park, or when already in attendance have been invited conjointly to partake of food and beverage. In the former case, written invitations addressed to "Mr. and Mrs. Liscom" are received. In the latter, case the invitations are extended orally directly to them.

#### ANALYSIS

As Chair of the California Horse Racing Board, Mr. Liscom is required to file annual financial disclosure statements disclosing among other things, gifts received during the previous calendar year. (Section 87302.) The term "gift" includes any payment to the extent that consideration of equal or greater value is not received. (Section 82028.)

#### Auction Item

As we previously advised in a similar situation involving California Horse Racing Board member Rosemary Ferraro, the admissions, meals and beverages provided to the couple who purchased the auction item are not deemed gifts to Mr. Liscom. (Leidigh Advice Letter, No. A-89-092, copy enclosed.) However, since Mr. Liscom received the benefit of meals and beverages provided in connection with that auction item, we believe his meals and beverages are a gift to him. In the present situation, Hollywood Park provided the meals and beverages directly to Mr. Liscom. In such circumstances, we believe these items were a gift from Hollywood Park.

#### Guest Passes for Friends

The Commission has advised that tickets given to a public official for distribution at the official's discretion constitute gifts to the official. (Lamoree Advice Letter, No. A-86-034; Robbins Advice Letter, No. A-77-392; copies enclosed.) We do not believe it is necessary for the official to have physical control of the tickets for them to be considered to be a gift. Here, Mr. Liscom chose the individuals who were to receive the passes and the passes were provided by Hollywood Park at his request. In

Robert E. Leidigh  
May 9, 1989  
Page 4

such circumstances, the passes are a gift from Hollywood Park to Mr. Liscom.<sup>2/</sup>

#### Guest Passes for Horse Owner

Gifts are to be valued at fair market value. (Regulation 18726(a).) In the present situation, the fair market value of the guest passes is undoubtedly the price which a person would otherwise have to pay for such an admission to Hollywood Park. The passes retain that value regardless of whether or not they would otherwise be provided free to certain individuals.

In the present situation, the passes were provided at the request of Mr. Liscom. Rather than simply providing Mr. Sloan with the phone number of Hollywood Park, Mr. Liscom went to the trouble of arranging for the tickets to be made available to Mr. Sloan. In such circumstances, we do not believe it is significant that Mr. Sloan could have obtained the tickets free. Again, we do not believe it is significant that Mr. Liscom never had physical control of the passes so long as he exercised discretion over their distribution. Accordingly, the passes are gifts to Mr. Liscom.

#### Mrs. Liscom's Meals and Beverages

Gifts given directly to members of an official's immediate family are not gifts to the official unless used or disposed of by

---

<sup>2/</sup> You have brought to our attention staff advice prepared in 1977 which concluded that four free passes which a racetrack provided to a legislator's constituents at the request of the legislator were not gifts. (Advice Memo No. M-77-493, copy enclosed.) The staff advice provided in pertinent part:

Thus, if the track informs the legislator that complimentary tickets to the track are at his disposal, the track will have made a gift to the legislator. In addition, a gift will have been made if a pattern of conduct emerges whereupon the legislator frequently asks that complimentary tickets be provided by the track for his constituents and the track honors such requests. However, a gift will not have been made if, in a rare occasion, the legislator asks a friend of his at the track to do a favor for several of his constituents.

Were it at issue, we would likely reconsider whether passes which are otherwise considered gifts can be considered not to be gifts simply because they are rarely made. However, we do not believe that is necessary because the present situation is distinguishable. It is apparent from your letter that Mr. Liscom has requested such passes on a relatively frequent basis.

Robert E. Leidigh  
May 9, 1989  
Page 5

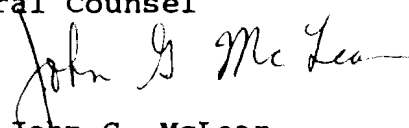
the official. (Regulation 18726.2.) Meals provided to Mrs. Liscom directly through a written invitation addressed to "Mr. & Mrs. Liscom" are gifts to Mrs. Liscom and do not constitute gifts to Mr. Liscom. Similarly, oral invitations for Mrs. Liscom to receive such meals do not constitute gifts if they are made to Mr. and Mrs. Liscom and do not simply give Mr. Liscom discretion to invite a guest or guests to the meal. (Regulation 18726.2, copy enclosed.)

As discussed between you and the Commission's former General Counsel, Diane Griffiths, your request and this response are public records.

If you have any further questions, please contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan  
General Counsel

  
By: John G. McLean  
Counsel, Legal Division

KED:JGM:aa

Enclosures

Law Offices of  
OLSON, CONNELLY, HAGEL & FONG

Mar 31 1 50 P.M. '89

March 31, 1989

Diane M. Griffiths  
General Counsel  
FAIR POLITICAL PRACTICES COMMISSION  
428 "J" Street, Suite 800  
Sacramento, California 95814

**RE: CONFIDENTIAL REQUEST FOR FORMAL WRITTEN ADVICE ON  
BEHALF OF CALIFORNIA HORSE RACING BOARD  
MEMBER LESLIE M. LISCOM UNDER REGULATION  
18329(b)(6)**

Dear Ms. Griffiths:

This letter is written in my capacity as special counsel to the California Horse Racing Board. It is written with the authorization of Board member and current Chair, Leslie M. Liscom. It requests formal written advice regarding Mr. Liscom's reporting requirements for his annual statement of economic interests.

Mr. Liscom will file his statement of economic interests on time, but will amend it once the requested advice has been received.

I previously obtained written advice confirming telephone advice with regard to California Horse Racing Board member Rosemary Ferraro and others (A-89-092). This advice request asks some parallel questions regarding valuation of gift passes to racing venues and meals under certain circumstances.

**F A C T S**

1. Mr. Liscom's spouse, on her own initiative contacted officials at Hollywood Park race track and sought their permission to offer "a day at the races with a racing commissioner" as an auction item for a charity auction for the Gold Shield at U.C.L.A. She was granted permission to make such an offer.

The item was purchased at the auction by a couple, who were previously unknown to Mr. & Mrs. Liscom. The couple attended the races at Hollywood Park on July 17, 1988. They were accompanied (as offered) by Mr. Liscom. The admissions for the couple were provided by using Mr. Liscom's California Horse Racing Board

---

LANCE H. OLSON  
BRUCE J. HAGEL  
LEROY Y. FONG  
ROBERT E. LEIDIGH

OF COUNSEL  
LLOYD G. CONNELLY, Member  
California State Legislature

Page Two  
March 31, 1989

credentials. Mr. & Mrs. Liscom also entered utilizing his California Horse Racing Board credentials. The four were guests of Hollywood Park for the races and received free meals and beverages, per Mrs. Liscom's arrangement with Hollywood Park.

2. Mr. Liscom called Hollywood Park and requested that four guest passes be left at will call for friends of his. The guest passes were only for admission purposes and were picked up directly by the friends. Mr. Liscom never had possession or control of the guest passes. They were used on May 22, 1988.

I am aware of staff advice previously issued on this subject (M-77-493), in which it was concluded that, in similar circumstances, the public official had not received a gift from the track.

3. An acquaintance of Mr. Liscom owns race horses. The acquaintance resides in British Columbia, but on occasion visits the United States to see his horses compete. The acquaintance, a Mr. Sloan, phoned Mr. Liscom because he was aware of Mr. Liscom's involvement in racing. Mr. Sloan wanted to come see his horse run in a race at Hollywood Park. He did not know how to contact Hollywood Park to obtain admission for himself, his spouse and child. He called Mr. Liscom for assistance. Mr. Liscom, in return, contacted Hollywood Park and requested that three guest passes be left for Mr. Sloan. Mr. Sloan picked them up directly.

Mr. Liscom is informed that any time an owner or a trainer has a horse running at Hollywood Park, they may obtain these guest passes for admission to watch their horse compete. Mr. Liscom basically acted as Mr. Sloan's agent in requesting the passes, since Mr. Sloan, in British Columbia, did not know how to go about it.

4. On a number of occasions, Mr. Liscom and his wife have been invited to attend events at Hollywood Park, or when already in attendance, have been invited conjointly to partake of food and beverage. In the former case, written invitations addressed to "Mr. and Mrs." are received. In the latter case, the invitations are extended orally directly to them.

### Q U E S T I O N S

1. Based upon your prior advice rendered to Rosemary Ferraro, it is clear that the couple and Mrs. Liscom's meals, etc. did not constitute gifts to Mr. Liscom. Are Mr. Liscom's meal and beverage a gift to him from his wife, the Gold Shield Charity, Hollywood Park, or not at all?

March 31, 1989

Page Three

Since Mr Liscom provided a service to the charity by accompanying the couple ("a day at the races with a racing Commissioner") this would seem to be a service provided to the charity of at least equal (or greater) value than the food and beverage consumed. His accompaniment may have increased the bid received by the charity for the auction item.

2. Following the staff advice rendered in M-77-493, it would seem that this one time request of passes for friends was not a gift to Mr. Liscom, since the passes were never under his possession and control. Do you concur?

3. Since Mr. Liscom, in effect, acted only as Mr. Sloan's agent in arranging for guest passes which Mr. Sloan could have obtained on his own, were these passes a gift from Hollywood Park to Mr. Liscom?

4. Gifts provided directly to an immediate family member are not gifts to the official. Therefore, the meals and beverages described, which were provided to Mrs. Liscom directly through either written or oral invitation, were not gifts to Mr. Liscom. Do you concur?

Thank you for your prompt attention to this request. As I understand it, under Regulation 18329(b)(6), this request will not become public record. Your advice will become public record only to the extent that it concludes these are disclosable gifts to Mr. Liscom.

Very truly yours,

OLSON, CONNELLY, HAGEL & FONG



ROBERT E. LEIDIGH

cc: Leslie M. Liscom, Chair  
California Horse Racing Board

REL:kh



## Memorandum

To : Kathy

Date : April 10, 1989

From : FAIR POLITICAL PRACTICES COMMISSION  
Diane

Subject: Liscom advice request

On April 6, I spoke with Bob Leidigh about the attached advice request. I explained that we did not feel that exemption of this letter or our response from the Public Records Act is permitted. On April 7, Bob advised me that his client understands our position and wants advice anyway.

Bob also asked me to add the following facts to the first factual situation described: In advertising the auction, Gold Shield indicated that the racing commissioner would take the purchaser on a tour of the facility, including a tour of the saddling paddock and the jockeys' room, areas which are not open to the public.

This matter is now ready for assignment. Please keep this memo with the file.

DMG:plh:liscom

Attachment

# Memorandum

To : Kathy

Date : April 10, 1989

From : FAIR POLITICAL PRACTICES COMMISSION  
Diane

Subject: Liscom advice request

On April 6, I spoke with Bob Leidigh about the attached advice request. I explained that we did not feel that exemption of this letter or our response from the Public Records Act is permitted. On April 7, Bob advised me that his client understands our position and wants advice anyway.

Bob also asked me to add the following facts to the first factual situation described: In advertising the auction, Gold Shield indicated that the racing commissioner would take the purchaser on a tour of the facility, including a tour of the saddling paddock and the jockeys' room, areas which are not open to the public.

This matter is now ready for assignment. Please keep this memo with the file.

DMG:plh:liscom

Attachment



# California Fair Political Practices Commission

April 12, 1989

Robert E. Leidigh  
Olson, Connelly, Hagel & Fong  
300 Capitol Mall, Suite 350  
Sacramento, CA 95814

Re: Letter No. 89-206

Dear Mr. Leidigh:

Your letter requesting advice under the Political Reform Act was received on April 10, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact John McLean an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

*Diane M. Griffiths*  
Diane M. Griffiths  
General Counsel *by jsh*

DMG:plh